Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	

COMMENTS

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SUMMARY

The Joint Board can create an efficient universal service mechanism that satisfies the requirements of the 1996 Act by targeting subsidiaries only to those individuals that require support. To determine the affordable rate, the Commission should establish guidelines for the states to follow. The rate determined, however, should be limited to only those core services to which a majority of households subscribe. A similar principle must apply to subsidies to schools, libraries and rural health care providers. However, in applying subsidies or discounts, these entities must be able to take advantage of a competitive telecommunications market by being permitted a "fresh look" policy with respect to existing ILEC contracts.

Any model considered or adopted by this Joint Board to determine costs must be available for public scrutiny and comment. Public participation is essential to the development of a successful universal service program that makes local service available at affordable rates and encourages facilities-based competition.

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COMMENTS

Teleport Communications Group Inc. ("TCG") hereby offers the following responses to the questions posed in the Public Notice dated July 3, 1996 in the above-referenced matter. To avoid repeating our position on many issues, TCG has responded to only a limited number of the questions. TCG directs the Commission to TCG's comments in earlier FCC inquiries on universal service for discussion of many of the issues not discussed here.

1. Is it appropriate to assume that current rates for services included within the definition of universal service are affordable, despite variations among companies and service areas?

There are many ways of measuring the affordability of telephone service. Given that more than 94% of all households in the United States subscribe to telephone service, one could certainly argue that current rates are affordable for the vast majority of our citizens. Indeed, in many areas a large pizza or a fill-up of gasoline exceed the fixed monthly cost for local exchange service. Looked at from still another perspective, most (if not all) residents in many of the high-cost areas would find rates "affordable" even if the rates were far above current levels, a notion that highlights the tension between a universal

service for all and the desire to target support to those customers who truly need it. As TCG has noted in previous comments to the Commission[1] on the reform of universal service, support should be targeted as much as possible only to those individuals that require support. Subsidies are inefficient when they go to consumers who can well afford to pay reasonable, cost-based rates for basic service, and who would not leave the network if they were required to pay cost-based rates.

2. To what extent should non-rate factors, such as subscribership level, telephone expenditures as a percentage of income, cost of living, or local calling area size be considered in determining the affordability and reasonable comparability of rates?

At this stage in its implementation of the Act's requirements, the Commission should examine any reasonable metric for comparing rates in different areas. In addition to those identified, the Commission should also consider comparing the rates of the state's largest carrier in the rural areas it serves to the rates of the smaller independent carriers in the rural areas they serve. It is not unreasonable to expect that the costs of serving these areas will be similar by any objective measure, and that the demographic characteristics of these areas will also be similar. To the extent that they are not similar, the affordability standards may differ from area to area. By controlling for as many variables as possible (size of carrier, demographics, etc.) the Commission will be able to compare

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[1] See Comments of Teleport Communications Group, Amendment of Part 36 of The Commission's Rules and Establishment of a Joint Board, CC Docket 80-286, FCC 94-199, October 28, 1994.

"apples to apples" and ensure rates are indeed comparable and affordable.

3. When making the "affordability" determination required by Section 254(I) of the Act, what are the advantages and disadvantages of using a specific national benchmark rate for core services in a proxy model?

The obvious disadvantage of attempting to establish a specific national benchmark rate of affordability is that no such national benchmark exists. That is, one size does not fit all; what is easily affordable in one area may be less affordable in another, and affordability may differ from one part of a state to another. The Commission would be wise to simply establish guidelines for the states -- such as a minimum set of core services to be provided -- to follow in establishing rates within their jurisdiction that comport with the standards of the Act.

4. What are the effects on competition if a carrier is denied universal service support because it is technically infeasible for that carrier to provide one or more of the core services?

This question highlights a particular danger in establishing a definition of basic core services that is too broad, a danger the Congress seems to have anticipated. By limiting the definition of basic service to those services that ". . . have been subscribed to by a substantial majority of residential customers," (Section 254(c)(1)(B)) and "are being deployed in public telecommunications networks by telecommunications carriers," (Section 254(c)(1)(C)), the Congress has taken the steps necessary to ensure that the definition of basic service remains reasonable and competitively and technologically neutral.

To the extent that a particular carrier is unable to meet customer expectations regarding basic service, or industry standards regarding technical standards and capabilities, they do not warrant universal service support.[2] So long as the Commission adheres to the statutory guidelines, competition should suffer no ill effects from the definition of basic service.

6. Should the services or functionalities eligible for discounts be specifically limited and identified, or should the discount apply to all available services?

It is clear from the plain language of the Act that Congress did not intend for universal service support to extend to any and all services. According to Sec. 254(b)(4), the universal service support mechanism must be ". . . specific, predictable, and sufficient." A policy of funding all available services would make it impossible for the Commission to comply with this section of the law. Furthermore, in its guidelines for the definition of services eligible for support, the Congress specified that the Commission should ". . . consider the extent to which such telecommunications services are essential to

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[2] This presumes, of course, that Sections 251 and 252 of the Act have been successfully implemented. To the extent that new entrants remain dependent upon the incumbent local exchange carriers for the termination of traffic and for unbundled elements, these sections of the Act take on critical importance. It is for this reason that TCG has insisted on strict quality of service standards in its interconnection negotiations with the RBOCs, in addition to viable interconnection rates. Without enforceable standards, an entrant's ability to provide acceptable service, basic or otherwise, could be compromised and held hostage to the whims of the incumbent.

education, public health, or public safety." 47 U.S.C. § 254(c)(1)(A). Before a service can be considered for universal service support, therefore, it must meet this burden. The inclusion of Section 254(c)(3) of the Act, which allows the Commission to identify additional "special services" for schools, libraries, and health care providers, indicates further that the Congress did not intend for all services to be eligible for support. Finally, Section 254(h)(1)(A) restricts special telecommunications services for health care providers to those ". . . which are necessary for the provision of health care services . . . ." Given these guidelines and the requirement that the mechanism be specific, predictable, and sufficient, the Commission should identify a finite and limited list of the minimally necessary services that comply with criteria established in Section 254.

9. How can universal service support for schools, libraries, and health care providers be structured to promote competition?

As in the case of universal service for residential customers, the key to universal service support for schools, libraries, and health care providers is equal access by providers to the support funds. If, as is the situation with current federal Universal Service Fund, support is provided only to incumbent carriers, then competitors will be at a severe disadvantage. The institutions that are eligible for this support, therefore, must be allowed to apply these funds to the cost of service from any provider they select.

In addition, the FCC should mandate a "fresh look" policy for schools, libraries, and health care providers so that they can take full advantage of the services available from carriers other than the incumbent local exchange carrier. The "fresh look" would enable these institutions to terminate existing ILEC contracts without penalty so that they might enter into new agreements with other carriers (and perhaps the same incumbent) under the new support program. This "fresh look" policy would prevent existing contractual arrangements from creating a barrier to competition and would encourage schools, libraries and health care providers to shop around for the best service at the best price. Never before have these institutions had the opportunity to take advantage of a competitive market for telecommunications services. The Commission should do all it can to allow them the opportunity to turn the forces of the market to their advantage.

26. If the existing high-cost support mechanism remains in place (on either a permanent or temporary basis), what modifications, if any, are required to comply with the Telecommunications Act of 1996?

Because the current high cost support mechanism (the Universal Service Fund) is supported only by interexchange carriers and provides support only to incumbent carriers, it is inconsistent with Section 254 and Section 214(e) of the Act. Fundamentally, therefore, the funding of the USF must be broadened to include all telecommunications providers, and the support should be available to all eligible carriers as determined under Section 214(e).

29. Should price cap companies be eligible for high-cost support, and if not, how would the exclusion of price cap carriers be consistent with the provisions of section 214(e) of the Communications Act? In the alternative, should high-cost support be structured differently for price cap carriers than for other carriers?

Companies that have elected to be regulated under a price cap regime have tacitly (or even explicitly) agreed that they bear full responsibility for their costs. The primary purpose of price cap regulation is to encourage more efficient behavior of the regulated firm by allowing it to reap the benefits of lower costs via higher profits. A universal service program that compensates price cap carriers regardless of cost would interfere with those incentives. To the extent that competition will take time to develop and that it will be some time until competitors are able to seriously challenge incumbent carriers, it would be wrong to interfere with the incentives afforded by price cap regulation.

Under Section 214(e)(2) of the Act, the State commissions retain the right to designate carriers eligible for universal service support and the areas in which such eligibility applies. So long as all carriers are treated equally, therefore, it would not be unfair or inequitable under the Act to deny universal service high-cost support to carriers operating in an area in which the dominant (incumbent) carrier was regulated under price caps. That is, if the dominant carrier in a geographic area was not eligible for high cost support in its service territory because it was operating under a price cap, then no carrier serving customers in that area would be eligible for support on

behalf of their customers. Only carriers offering service in areas in which the dominant carrier was not subject to price caps would be eligible for high cost support.

30. If price cap companies are not eligible for support or receive high-cost support on a different basis than other carriers, what should be the definition of a "price cap" company? Would companies participating in a state, but not a federal, price cap plan be deemed price cap companies? Should there be a distinction between carriers operating under price caps and carriers that have agreed, for a specified period of time, to limit increases in some or all rates as part of a "social contract" regulatory approach?

If it looks like price caps, then it should be treated like price caps. Because social contract" approaches take on all of the characteristics of a price cap regime, then those areas too should be ineligible for universal service support. To the extent that the provision of universal service high cost support to a carrier in a state, but not a federal, price cap plan would interfere with the incentives of the price cap plan, then no federal support should be forthcoming.

42. Will support calculated using a proxy model provide sufficient incentive to support infrastructure development and maintain quality service?

The key to infrastructure development and quality service is the establishment of rules that enable and encourage facilities-based competition. Similarly, the cost model used to determine the funding requirement for universal service must accurately capture the true economic cost of basic service. To do so, the model must adhere to the TELRIC cost standard established in the Commission's interconnection docket (CC 96-98). That is,

universal service support should be the difference between the total element long run incremental cost of basic service and the affordable rate for basic service. Use of a model that does not adhere to this standard will (1) send incorrect price signals that will discourage facilities-based entry by competitors; or (2) inflate the size of the universal service mechanism and place an unbearable burden on nascent facilities-based competitors. With the proper interconnection and universal service rules in place, based on proper implementation of the Commission's TELRIC standard, facilities based competitors will build the modern telecommunications infrastructure envisioned by supporters of the Act.

45. Is it appropriate for a proxy model adopted by the Commission in this proceeding to be subject to proprietary restrictions, or must such a model be a public document?

It is absolutely necessary for any model adopted by the Commission to be available for public scrutiny and comment. Because universal service is a national public policy goal, the foundations for its funding must be open to the public. For too long the data supporting the results of cost studies have been hidden within the "black boxes" of the incumbent local exchange carrier's computers The recent development of the BCM, the Hatfield model, and CPM has removed much of the mystery from the cost study process, ensuring that those who contribute to the fund will have ample opportunity to examine the basis for their contribution. Furthermore, open models such as those under

consideration have been modified and "fine-tuned" in response to public criticism. Without such criticism and absent the ability of other parties to propose alternative public models, it is unlikely that the universal service debate would have made the progress it has made over the last few years.

70. If a portion of the CCL charge represents a contribution to the recovery of loop costs, please identify and discuss alternatives to the CCL charge for recovery of those costs from all interstate telecommunications service providers (e.g., bulk billing, flat rate/per-line charge).

The CCLC, like the subscriber line charge, or the rate for local exchange service, is simply a means of recovering the costs of that portion of the local loop — in this case the portion allocated to the interstate jurisdiction. Because the local loop supports interstate services, and because interexchange carriers derive a financial benefit from their use of the local loop, it is appropriate that a portion of its costs be recovered from an interstate charge to interexchange carriers. It would be inappropriate in this universal service proceeding to consider an alternative to the CCLC as it is not a universal service subsidy, any more than the subscriber line charge or local exchange service rate is a universal service subsidy.

72. Section 254(d) of the 1996 Act provides that the Commission may exempt carriers from contributing to the support of universal service if their contribution would be "de minimis." The conference report indicates that "[t]he conferees intend that this authority would only be used in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission." What levels of administrative costs should be expected per carrier under the various methods that

have been proposed for funding (e.g., gross revenues, revenues net of payments to other carriers, retail revenues, etc.)?

The de minimis standard of the Act refers to both the costs incurred by the administrator in collecting funds as well as those incurred by carriers in complying with the rules of the mechanism. That is, a carrier for whom the administrative costs associated with contributing to the mechanism exceeded that carrier's contribution would not be required to contribute. These administrative costs would be insignificant for large carriers, both relative to their contributions to the fund and to their overall operating budgets. Small carriers, new entrants, and start-ups, however, would be especially burdened by those costs, perhaps to the point of being a barrier to entry.

Wherefore, TCG respectfully requests that the joint Board render its recommendation in this proceeding consistent with these comments.

Respectfully submitted,

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August 2, 1996

CERTIFICATE OF SERVICE

I, Cynthia A. Queen, do hereby certify that on this 2nd day of August 1996, a copy of the foregoing was sent by first class U.S. mail, postage prepaid, to the parties listed below:

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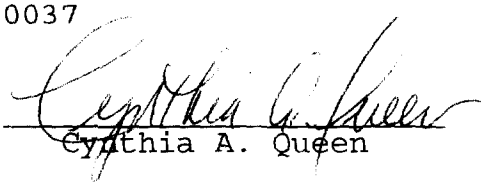

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